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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,599	09/15/2003	Bruce L. Kennedy	02580-P0085B	2356
24126	7590	07/25/2007	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			SMITH, PHILIP ROBERT	
		ART UNIT		PAPER NUMBER
		3739		
		MAIL DATE	DELIVERY MODE	
		07/25/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/662,599	KENNEDY, BRUCE L.	
	<b>Examiner</b> Philip R. Smith	<b>Art Unit</b> 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 23 March 2007.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 19-31 and 46-48 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 19-31 and 46-48 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

**Claim Rejections - 35 USC § 102**

- [01] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [02] The rejection of claims 19-27,29-31,46-47 as being anticipated by Winkler is withdrawn in view of the arguments of 3/23/2007.

**Claim Rejections - 35 USC § 103**

- [03] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [04] Claims 19-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beutter (2003/0076410) in view of Winkler (6,411,851).
- [05] With regard to claim 19:
  - [05a] Beutter discloses a medical video instrument having touch screen control comprising:
    - a touch screen ("[i]n response to touch-screen or voice generated commands...) for entering control commands ("the operating room control center 42 generates control signals to the camera control unit 34," [0030]) to control said medical video instrument ("endoscopic viewing system 20," [0026]), said medical video instrument inserted into a body cavity and generating an image stream representative of the body cavity and displayed on said touch screen;
    - a processor ("operating room control center 42," as noted above) for receiving said control commands and for generating control signals to operate said medical video instrument;

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- the processor disclosed by Beutter is inherently enclosed by a housing.

[05b] Beutter does not disclose

- that said touch screen movable between a first position at least partially within a footprint of said housing and a second position extended from said footprint of said housing.

[05c] Winkler discloses

- a processor ("programmer 200" comprising "computer circuitry") for receiving control commands (12/28-39) from a touch screen (comprising "display screen 206" & "stylus 208," column 12/ lines 6-10) and for generating control signals to operate a medical instrument ("implantable medical device IMD 10").
- that said touch screen is movable between a first position at least partially within a footprint ("folds down in a closed position") of said housing and a second position ("plurality of possible open positions") extended from said footprint of said housing (12/10-27).

[05d] At the time of the invention, it would have been obvious to a person of ordinary skill in the art that the "operating room control center 42" having a "touch-screen" disclosed by Beutter take the particular for disclosed by Winkler. A skilled artisan would be motivated to do so in order to minimize space requirements when the control center is not in use; and to reduce potential for damage to the touch screen.

[06] With regard to claims 20-21: the touch screen disclosed by Winkler is unpluggable from said housing and includes stackable mating plug portions.

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- [07] With regard to claim 22: the touch screen disclosed by Beutter in view of Winkler can inherently be used by a plurality of medical instruments.
- [08] With regard to claims 23 & 30-31: As noted above, Winkler discloses that the touch screen slides out of the housing and is deflectable. Deflection, when it occurs, inherently occurs about some axis, which may be called the axis of said housing.
- [09] With regard to claims 24-25: As noted above, Winkler discloses a "stylus 208" with which to "interact with display screen 206" (13/8-9). It is clear from Fig. 6 that the touch screen slides up and out of the "closed position" into an "open position" where it is lodged in one of a plurality of slots in the housing and propped back at its sides against a rotating support. From this one of a plurality of open positions, the touch screen is clearly more difficult to deflect in the opening direction (propped back against the rotating support) than it is in the closing direction (laid flat within the housing), enabling the touch screen to interact with "stylus 208" without unintentional deflection.
- [10] With regard to claim 26: Touch screens conventionally present a keyboard to the user. Winkler suggests this when he states the following in 12/35-39: "Display screen 206 is the primary input medium for programmer 200, and therefore preferably has sufficient resolution to support operations including selection, gestures, annotation, and character recognition."
- [11] With regard to claim 27: Beutter further discloses a sensor ("camera head 28," [0027]) in communication with said processor, said sensor receiving control signals to operate said medical instrument.
- [12] With regard to claim 28: Beutter discloses a speech recognition module ("voice-generated commands," [0030]) executing on said processor, said speech recognition module receiving voice signals that control said medical instrument.

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- [13] With regard to claim 29: Winkler further discloses an expert system executing on said processor ("analyzer 210"), said expert system generating control signals to operate said medical instrument (12/40-49).
- [14] With regard to claim 46: the medical video instrument disclosed by Winkler generates video data that is displayed on said touch screen.
- [15] With regard to claim 47: the video screen disclosed by Winkler is coupled to said processor, and said medical video instrument generates video data that is displayed on said video screen.

#### **Additional Claim Rejections - 35 USC § 103**

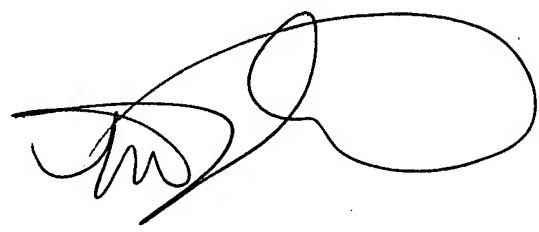
- [16] Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beutter (2003/0076410) in view of Winkler (6,411,851) and in further view of Watai (2003/0060678).
- [17] Beutter in view of Winkler does not disclose a storage for storing the image stream.
- [18] Watai discloses a "hard disk 21e for storing image data" ([0064]).
- [19] At the time of the invention, it would have been obvious to a person of ordinary skill in the art to store the image data disclosed by Beutter in view of Winkler as taught by Watai. A skilled artisan would be motivated to do so in order to preserve captured medical data.

#### **Conclusion**

- [20] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.
- [21] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.

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[22] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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